IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

C.W.P. No. 11406 of 2007 (O.&M.)
Date of Decision: 5.9.2007

Vimal Chouhan.

..... Petitioner through Shri Sanjiv Bansal, Advocate.

Versus

Airport Authority of India and another.

..... Respondents through Shri B.S.Bhullar, Advocate.

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR.JUSTICE MAHESH GROVER

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1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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VIJENDER JAIN, CHIEF JUSTICE

C.M.No.12240 of 2007

C.M. is allowed and the affidavit of the petitioner filed along with it is taken on record.

C.W.P.No.11406 of 2007

The petitioner has filed this petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing order dated 6.7.2007 (Annexure P11) whereby his car parking

contract at Chandigarh Civil Air Terminal has been terminated by invoking Clause 23 of the Licence Agreement and for a direction to the respondents to accept the defaulted licence fee.

On 30.7.2007, this Court had passed the following order:-

" Notice of motion.

Ms.Shabiya Sood, Advocate accepts notice on behalf of the respondent-caveator.

Counsel for the petitioner has contended that contract was upto 2009 and there was default on his part in making the payment of installments for the months of April to June,2007.

On the other hand, learned counsel for the respondents has contended that petitioner is a habitual defaulter and he has defaulted in making the payment of licence fee and in the month of November,2007, he had given an undertaking to the respondent that in future he will not make any default and in case of default, his contract be terminated and in the month of February,2007, he had tendered apology.

Since the contract is till 2009, and there is nothing on the record to show that prior to the termination of the contract, any opportunity of hearing was given to the petitioner, therefore, we stay the impugned order subject to the following conditions:-

i) Petitioner shall pay all the outstanding amount of the licence fee alongwith interest @ 18% per annum to

the respondent.

ii) We would also make it clear that petitioner will pay two months licence fee in advance to the respondents and in this regard he will also issue a post dated cheque in favour of the respondents and in the event of the cheque being dishonoured by the bank, the impugned order shall immediately revive.

Let an undertaking be filed by the petitioner that he will abide by the order passed by this Court and will continue to pay the advance licence fee in terms of the order passed by us today.

One draft bearing No.938913 dated 25.7.2007 for Rs.1,18,062/- as licence fee for the defaulted period of three months alongwith interest @ 18% per annum and another draft bearing No.938955 dated 25.7.2007 for Rs.78,788/- have been handed over to the counsel for the respondents.

Counsel for the respondents says that she be permitted to file the counter affidavit.

Let the counter affidavit be filed in the Registry within four weeks from today with an advance copy to the counsel for the petitioner. Rejoinder, if any, be filed within two weeks thereafter.

Re-notify for hearing on 5.9.2007."

As a measure of compliance of the above reproduced

directions, the petitioner has filed an affidavit dated 1.8.2007, the relevant portion of which is reproduced below:-

> " 1. That the deponent undertakes that the deponent shall never commit default of payment of licence fee during the subsistence of the agreement.
>
> 2. That the deponent shall hand over post dated cheque/s for the amount of monthly licence fee representing the two months licence fee in advance to the respondent authorities and the respondent authorities shall be entitled to encash the same on the due date and that the aforesaid cheques upon presentation shall not be dis-honoured.
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> 3. That the deponent undertakes that if the deponents defaults in payment of due licence fee, the licence deed shall stand terminated forthwith without any further notice or presentation."

Having regard to the undertaking furnished by the petitioner that he shall not commit any default in payment of the licence fee during the subsistence of the agreement, as also the fact that he has undertaken to hand over the post-dated cheques for the amount of monthly licence fee representing two months' advance to the respondent-authorities and they shall be entitled to encash the same on due dates and if he defaults, the licence deed shall stand terminated, we are of the opinion that the interest of the respondents has been more than adequately safe-guarded and their only grievance will stand remedied.

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Consequently, the writ petition is disposed of in terms of the above while quashing the impugned order.

(Vijender Jain)
Chief Justice

September 05,2007
"SCM"

(Mahesh Grover)
Judge